

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR _____ MHP

Plaintiff(s),

**APPLICATION FOR PERMISSION TO
ENTER PLEA OF GUILTY;**

v.

ORDER ACCEPTING PLEA
(FRCrP, Rules 10 and 11)

Defendant(s). _____/

The defendant represents to the Court:

1. My full true name is _____.
- I am _____ years of age. I have gone to school up to and including _____.
- My most recent occupation has been _____.
- I request that all proceedings against me be in my true name.
2. I am represented by a lawyer; his/her name is _____.
3. _____ I am proficient enough in English to read the above and have read and fully understand it.
- _____ I am not proficient enough in English. I speak and understand _____, which is my native language. The above was read to me in _____, and I fully understand it.
4. I received a copy of the indictment/information (as used in the Application, the term indictment includes information) before being called upon to plead. I have read the indictment or an interpreter who speaks _____ read it to me, and I have discussed the indictment with my lawyer. I fully understand every charge made against me. I

understand these charges to be:

5. I told my lawyer all the facts and circumstances known to me about the charges made against me in the indictment. I believe that my lawyer is fully informed on all such matters.

6. I know that the Court must be satisfied that there is a factual basis for a plea of "GUILTY" before my plea can be accepted. I represent to the Court that I did the following acts in connection with the charges made against me in Counts:

(In the above space, defendant must set out in detail in his/her own handwriting what he/she did. If more space is needed, add a separate page.)

7. My lawyer has counseled and advised me on the nature of each charge, all lesser included charges, all penalties and consequences of each charge, all possible defenses that I may have in this case, and the constitutional rights I am waiving.

8. I understand that my constitutional rights are as follows:

- A. The right to a speedy and public trial by jury;
- B. The right to see and hear all witnesses called to testify against me;
- C. The right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor;
- D. The right to the assistance of a lawyer at all stages of the proceedings, and if I cannot afford one, to have the court appoint one to represent me without cost to me or based upon my ability to pay.
- E. The right to take the witness stand at my sole option, and if I do not take the witness stand, no inference of guilt may be drawn from such failure;
- F. The right against self-incrimination;
- G. The right to appeal from an adverse judgment;
- H. The right to raise available defenses, including defenses which may be raised by motion.
- I. The right to appeal my sentence as limited by my plea agreement.
- J. If plea entered pursuant to a plea agreement, the right to discovery of materials in the possession of or available to the government, including materials that may be exculpatory, and which I may receive in the future, but have not yet received because of entering into a plea agreement.

9. I know that I may plead "NOT GUILTY" to any offense charged against me.

10. I know that if I plead "GUILTY", I am giving up all of the rights enumerated in paragraph 7 , and that there will be no trial either before the Court or jury.

11. I know that if I plead "GUILTY", the result of my plea is more than just admission or confession of guilt, and that it will result in my conviction. Furthermore, the Court may impose the same punishment as if I had pleaded "NOT GUILTY", stood trial, and been convicted by a jury.

12. My lawyer has discussed with me the maximum and minimum, if any, punishments which the law provides, and the various provisions of the Sentencing Guidelines that may apply to me. I understand that the maximum punishment for the offenses charged in Count(s) _____ of the indictment is _____ months of imprisonment, a fine in the amount of \$_____, and a period of _____ year(s) supervised release. I understand that there is a mandatory minimum punishment of _____ months imprisonment for the offense(s) charged in Count(s) _____. I also understand that the maximum period of supervised release which the court may impose is _____ months (if applicable), and that if I violate any condition of supervised release, the release may be revoked and I may be sentenced to a part or all of the term of supervised release imposed in addition to any other term of imprisonment which I have received.

I understand that I may be assessed the costs of confinement and/or supervision. I understand that I must pay a penalty assessment of \$_____ per count to which I plead (or \$_____ per count in the case of misdemeanor counts). I also understand that I may be ordered to pay restitution in an amount determined by the court.

I also understand that the court and counsel cannot promise what sentence or sentencing range will be set and that these calculations will depend upon the Sentencing Guidelines as they apply to me. I have been advised that the Court may sentence within the guideline range determined by the US Probation Office, or may depart upward or downward from the range. However, no promises have been made to me as to the range or departure.

13. If I am on probation or parole in this or any other court, I know that by pleading guilty

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

here, my probation or parole may be revoked and I may be required to serve time in that case, which may be consecutive (that is, in addition) to any sentence imposed upon me in this case.

14. I declare that no officer or agent of any branch of government (Federal, State, or Local) has promised or suggested that I will receive a lighter sentence, or probation, or any other form of leniency if I plead "GUILTY", except as stated in the Plea Agreement I have signed, stated on the record in my entry of plea or as follows:

(In the space above, insert any promises or concessions made to the defendant or to his/her attorney.)

If anyone else made such a promise or suggestion, except as noted in the previous sentence, I know that that person had no authority to do it. No one has forced or coerced me into entering this plea. I enter this plea of my own free will. My willingness to plead guilty:

_____ does not result from prior discussions between my attorney and the government's attorney.

_____ does result from prior discussion between my attorney and the government's attorney. (If it does, state any factors that influenced you that are not reflected in the plea agreement.)

If a plea agreement has been entered into, please answer the following:

15. I have read in full the plea agreement I have entered into with the government or an interpreter has translated the entire agreement into the _____ language, and I fully understand it. No one has made any promises to me that are not included

in the agreement except:

(Set forth all promises or state “None” if no other promises made).

16. I believe that my lawyer has done all that a lawyer could do to counsel and assist me, and I am satisfied with the advice and help he/she has given me.

17. I know that the court will not permit anyone to plead “GUILTY” who maintains he/she is innocent and, with that in mind and because I am “GUILTY”, I respectfully request the Court to accept my plea of “GUILTY” and to have the clerk enter my plea of “GUILTY” as follows:

18. I understand that I may not withdraw my plea unless the plea agreement I have entered into provides otherwise or the court permits me to withdraw my plea.

19. My mind is clear. I am not under the influence of alcohol and/or drugs, and I am not under a doctor’s care. The only drugs, medicines, or pills that I have taken with the past seven days are:

(If none, so state.)

/

/

20. **I OFFER MY PLEA OF “GUILTY” FREELY AND VOLUNTARILY, AND OF**

1 MY OWN ACCORD AND WITH FULL UNDERSTANDING OF ALL THE MATTERS SET
2 FORTH IN THE INDICTMENT AND IN THIS APPLICATION AND IN THE
3 CERTIFICATE OF MY LAWYER WHICH IS ATTACHED TO THIS APPLICATION. IN
4 OFFERING MY PLEA OF "GUILTY", I FREELY AND VOLUNTARILY WAIVE (give up)
5 THE CONSTITUTIONAL RIGHTS GUARANTEED TO ME AS STATED IN PARAGRAPH
6 7 ABOVE.

7 21. I waive the reading of the indictment in open court, and I request the court to enter my
8 plea of "GUILTY" as set forth in Paragraph 15 of this application.

9 22. I understand that all of the above statements will be made in open court under oath
10 and that any false statements may be used against me in a prosecution for perjury or false
11 statement, which in a felony.

12
13 Signed by me in open court in the presence of my attorney this _____ day
14 of _____, 20____.

15
16 _____
17 Defendant's Signature
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTERPRETER CERTIFICATION

I, _____, hereby certify that I am a duly _____ interpreter in the English and _____ languages, and that I read all of the above to the defendant, that he/she stated he/she fully understood it, and I am satisfied that his/her answer is true and correct.

Date _____

Interpreter's Signature

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for the defendant, _____,
hereby certifies:

1. I have read and fully explained to the defendant and believe he/she fully understands the allegations contained in the indictment of this case, the defenses he/she may have to each and every one of the allegations and the consequences of a plea of "GUILTY", including the pertinent Sentencing Guidelines provisions and maximum and minimum penalties.

2. I believe the defendant fully understands the constitutional rights he/she is waiving and that by entering a plea of "GUILTY", he/she is waiving each and every one of those rights.

3. Nothing has come to my attention which causes me to believe that the defendant lacks the ability to understand anything contained in the attached application or that at the time of entering his/her plea, he/she is under the influence of any drug or alcohol.

4. The plea of "GUILTY" offered by the defendant in Paragraph 15 accords with my understanding of the facts he/she related to me and is consistent with my advice to the defendant.

5. In my opinion, the defendant's waiver of reading of the indictment in open court as provided by FRCrP 10 is voluntarily understandingly made, and I recommend to the court that the waiver be accepted by the court.

6. Defendant has read the Plea Agreement he/she signed in this matter and I believe he/she fully understands it. I certify that no promises have been made to the defendant by the government or myself other than those contained in the Plea Agreement and if there are such other promises, I must state them on the record before my client and the court.

/

/

/

/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. In my opinion, the plea of “GUILTY” offered by the defendant in paragraph 15 of this application is voluntarily and understandingly made. I recommend that the court accept the plea of “GUILTY”.

Signed by me in open court in the presence of the defendant above-named and after full discussion of the contents of this certificate with the defendant this _____ day of _____, 20_____.

Attorney (for the defendant) Signature

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

I find that:

1. The defendant enters this plea of “GUILTY” freely and voluntarily and not out of ignorance, inadvertence, fear, or coercion.
2. The defendant understands and knowingly, freely and voluntarily waives his constitutional rights.
3. The defendant freely and voluntarily executed the within application and understands its contents.
4. The defendant has admitted the essential elements of the crime charged.

IT IS THEREFOR ORDERED that the defendant’s plea of “GUILTY” be accepted and entered as prayed for in the Application and as recommended in the certificate of his lawyer.

IT IS FURTHER ORDERED that the plea agreement entered into in this matter is:

_____ Accepted at this time.

_____ Taken under submission until the time of sentencing.

Done in open court this _____ day of _____, 20_____.

Marilyn Hall Patel
United States District Judge